

Public

BPMC No. 15-174

STATE OF NEW YORK                    DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

**ROBERT W. SOMMER, M.D.**  
CO-15-02-0662A

COMMISSIONER'S  
SUMMARY  
ORDER

TO: Robert W. Sommer, M.D.

[REDACTED]

The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the State of Arizona, has made a finding substantially equivalent to a finding that the practice of medicine by **ROBERT W. SOMMER, M.D.**, Respondent, New York license number 079609, in that jurisdiction, constitutes an imminent danger to the health of its people, as is more fully set forth in the Interim Findings of Fact, Conclusions of Law and Order for Summary Suspension of License, of the Arizona Medical Board, dated February 2, 2015, attached, hereto, as Appendix "A", and made a part, hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, **ROBERT W. SOMMER, M.D.**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

ANY PRACTICE OF MEDICINE IN THE STATE OF NEW YORK IN VIOLATION OF THIS ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY DEFINED BY NEW YORK EDUCATION LAW §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty (30) days after the final conclusion of the disciplinary proceeding in Arizona.

The hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Referral Proceeding to be provided to the Respondent after the final conclusion of the Arizona proceeding. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

RESPONDENT SHALL NOTIFY THE DIRECTOR OF THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT, NEW YORK STATE DEPARTMENT OF HEALTH, RIVERVIEW CENTER, SUITE 355, 150 BROADWAY, ALBANY, NY 12204, VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE

FINAL CONCLUSION OF THE PROCEEDING IMMEDIATELY UPON SUCH CONCLUSION.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATE: Albany, New York

*July 2, 2015*

Howard A. Zucker, M.D., J.D.  
Commissioner of Health  
New York State Department of Health

Inquires should be directed to:

David W. Quist  
Associate Attorney  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282

## Appendix A

## BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

Case No: MD-14-1593A

ROBERT W. SOMMER, M.D.

**INTERIM FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER  
FOR SUMMARY SUSPENSION OF  
LICENSE**

Holder of License No. 31443

For the Practice of Allopathic Medicine  
In the State of Arizona.

## **INTRODUCTION**

8 The above-captioned matter came on for discussion before the Arizona Medical  
9 Board ("Board") at its Summary Action meeting on February 2, 2015. After reviewing  
10 relevant information and deliberating, the Board voted to consider proceedings for a  
11 summary action against Robert W. Sommer, M.D. ("Respondent"). Having considered the  
12 information in the matter and being fully advised, the Board enters the following Interim  
13 Findings of Fact, Conclusions of Law and Order for Summary Suspension of License,  
14 pending formal hearings or other Board action. A.R.S. § 32-1451(D).

## **INTERIM FINDINGS OF FACT**

16        1. The Board is the duly constituted authority for the regulation and control of  
17 the practice of allopathic medicine in the State of Arizona.

18        2.     Respondent is the holder of License No. 31443 for the practice of allopathic  
19     medicine in the State of Arizona.

20       3. On or about December 4, 2014, the Board received a complaint from a  
21 person wishing to remain confidential alleging that Respondent is or may be physically or  
22 mentally unable to safely engage in the practice of medicine. Specifically, the complainant  
23 alleged that:

24 i. Respondent has been hospitalized with mental and cognitive impairments.  
25 ii. Respondent has been found to have neuropsychological deficits.

iii. Respondent has recently lost his motor vehicle driver's license privileges following several accidents.

iv. Respondent has been prescribing medication to himself and to a person or persons living with him without establishing a medical record or normal doctor-patient relationship.

4. Respondent was referred for a health assessment with the Board's Physician Health Program ("PHP"). Respondent cancelled his first appointment for the assessment and failed to present for the second scheduled assessment.

5. During a phone conversation with Board staff, Respondent admitted to prescribing medication to a person without documenting that treatment in a medical record.

6. The aforementioned information was presented to the investigative staff, the medical consultant and the lead Board member. All reviewed the information and concurred that an Interim Consent Agreement to limit Respondent's practice would be appropriate.

7. An Interim Consent Agreement for a Practice Limitation was mailed to Respondent's address of record on January 15, 2015 and a signature was due to the Board by January 23, 2015 at 5:00 p.m. Respondent failed to return the document, and confirmed through a telephone call with Board staff on January 30, 2015 that he would not be willing to sign.

8. Respondent stated during the phone conversation on January 30, 2015 that he experiences problems with his memory.

9. Respondent has failed to submit evidence that he is currently fit to practice medicine.

## INTERIM CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over

1 Respondent, holder of License No. 31443 for the practice of allopathic medicine in the  
2 State of Arizona.

3       2. The conduct and circumstances described above constitute unprofessional  
4 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be  
5 harmful or dangerous to the health of the patient or the public.").

6       3. The conduct and circumstances described above constitute unprofessional  
7 conduct pursuant to A.R.S. § 32-1401(27)(dd) ("[f]ailing to furnish information in a timely  
8 manner to the board or the board's investigators or representatives if legally requested by  
9 the board.").

10       4.     Based on the foregoing Interim Findings of Fact and Conclusions of Law, the  
11 public health, safety or welfare imperatively requires emergency action. A.R.S. § 32-  
12 1451(D).

## ORDER

14 Based on the foregoing Interim Findings of Fact and Conclusions of Law, set forth  
15 above,

**IT IS HEREBY ORDERED THAT:**

17       1.     Respondent's license to practice allopathic medicine in the State of Arizona,  
18     License No. 31443, is summarily suspended.    Respondent is prohibited from practicing  
19     medicine in the State of Arizona and is prohibited from prescribing any form of treatment  
20     including prescription medications or injections of any kind until receiving permission from  
21     the Board to do so.

22        2. The Interim Findings of Fact and Conclusions of Law constitute written notice  
23 to Respondent of the charges of unprofessional conduct made by the Board against him.  
24 Respondent is entitled to a formal hearing to defend these charges as expeditiously as  
25 possible after the issuance of this Order.

1       3. The Board's Executive Director is instructed to refer this matter to the Office  
2 of Administrative Hearings for scheduling of an administrative hearing to be commenced  
3 as expeditiously as possible from the date of the issuance of this order, unless stipulated  
4 and agreed otherwise by Respondent.

5 DATED this 5<sup>th</sup> day of January, 2015.

## ARIZONA MEDICAL BOARD

By: Patricia E. Murphy  
Interim Acting Executive Director

10 ORIGINAL of the foregoing filed this  
2<sup>nd</sup> day of February, 2015, with:

11 Arizona Medical Board  
12 9545 East Doubletree Ranch Road  
Scottsdale, Arizona 85258

14 Executed copy of the foregoing mailed by Certified  
Mail this 2nd day of February, 2015, to:

15 Robert W. Sommer, M.D.  
16 Address of Record

17 Executed copy of the foregoing mailed this  
2<sup>nd</sup> day of February, 2015, to:

18 Carrie H. Smith, Esq.  
19 Assistant Attorney General  
20 1275 West Washington, CIV/LES  
Phoenix, AZ 85007

### Board Staff